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REPORT

OF THE

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U. S. GEOLOGICAL SURVEY

OF THE

COUNCIL OF PROPRIETORS

OF

WEST NEW JERSEY,

IN RELATION TO THE

PROVINCE LINE

BETWEEN EAST AND WEST NEW JERSEY.

(1837)

♦♦♦♦

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REPORT OF

THE COMMITTEE

Report of the Committee to the Council of Proprietors of
West New Jersey in regard to the dividing line between the
Provinces of East and West New Jersey, as mentioned in the
Quintipartite deed dated July 1st, 1676.

PROVINCE LINE 1887.

AT the annual meeting of the Council of Proprietors of the Western division of New Jersey, held at Burlington, N. J., May 3d, 1886, the following entry was made in the minutes at that time: "The committee appointed to inquire into the action of the Eastern Proprietors, who have been granting rights for location on Long Beach west of the dividing line, reported progress." And also,

"*Resolved*, That John Clement, Henry B. Fowler and Henry S. Haines be a committee to procure information regarding the recent running of the Keith line on the beach, and report the same to the Council in writing. F. C. WOOLMAN, clerk."

In discharge of the duty thus imposed upon your committee they have used every effort to procure information connected with this question. They have collected the history of this remarkable controversy and arranged it in chronological order to be the more easily examined and understood. They have endeavored to explain each point as it presented itself and to throw light upon parts that are vague, obscure and uncertain.

It will be seen that several attempts have been made to arbitrate this dispute, and men in every way competent called for that purpose, who gave patient and careful attention to the subject, but failed in every instance to satisfy the parties interested.

For these reasons the present inquiry is a pertinent one and is intended to be an impartial statement of the facts and from which the conclusions arrived at, have come. The Quintipartite deed of July 1st, 1676, (or deed of division) between the owners of the Province of New Jersey, that is, between Sir George Carteret of the one part and William Penn, Gawen Wric and Nicholas Lucas, trustees of Edward Byllynge, of the

other part, for the purpose of establishing a line of division between the two provinces, to be known as New East Jersey and New West Jersey, mentions two points between which said line should be run and which should be and remain as said partition line or boundary.

As touching the north partition point, about which there has always been the most controversy, it is well to bear in mind the evident intention of the parties in interest as expressed in the several grants of said territory.

The Duke of York, in his deed of conveyance of June 1664, to Lord John Berkley and Sir George Carteret, uses the words, "And to the northward as far as the northernmost branch of said bay or river of Delaware which is in $41^{\circ} 40'$ latitude."¹ In the deed of division July 1st, 1676, between the Trustees of Edward Byllynge and Sir George Carteret, these words are used, "to the northernmost branch or part of the before-mentioned river called Delaware river and to the most northerly point or boundary of said tract of land and premises granted by his said royal highness, James Duke of York, unto the said Lord Berkley and Sir George Carteret, to be called the north partition point,"² which proves conclusively that it was intended the north station point on Delaware river, as mentioned in each deed, should be the same. However widely parties may have differed as to whether the north station point be at the northernmost branch or at $41^{\circ} 40'$ latitude, no one ever claimed but that the north station point, as named in the deed of conveyance of 1664, is the same as that mentioned in the deed of division of 1676.

This line, in short, and as described in said deed, is between the north partition point on the Delaware river, "extending southerly through said tract of land unto the most southerly point of the east side of Little Egg Harbor aforesaid."³

About eight months after the date of said deed (March 3, 1676, old style,) the concessions and agreements of the Proprietors of West New Jersey were signed in London, and the next

¹ Leaming and Spicer's Laws, page 63.

² Leaming and Spicer's Laws, page 67.

³ Leaming and Spicer's Laws, page 382.

year (August 16, 1677,) commissioners representing their several interests arrived in the Delaware river. The record of the proceedings of the commissioners from their arrival, in 1677, to the close of the year 1687, having been lost or destroyed, it cannot be known whether any action was taken by them looking to the running of the province line.

In 1684 the Council of Proprietors of East New Jersey was established and George Keith appointed Surveyor General. He was a man of acknowledged ability and fully capable to discharge the duties of the office.⁴

The Council of Proprietors of West New Jersey was established February 14, 1687.

The first attempt to establish the two station points and run the partition line may be thus stated: Gawen Laurie was appointed Deputy Governor of East New Jersey in 1683, and part of his instructions was to run and fix the province line.⁵ The greatest difficulty was to establish the north station point on the Delaware river, and led to much controversy and dispute. Nothing was done, however, until June 30, 1686, when Thomas Dongan, Governor of New York, Gawen Laurie, Deputy Governor of East Jersey, and John Skein, Deputy Governor of West Jersey, had a conference at Fort James (New York) and agreed that George Keith, Surveyor General of East Jersey, Andrew Robeson, Surveyor General of West Jersey, and Philip Wells, Surveyor General of New York, should meet at the falls (Trenton) September 1st following, and proceed to establish the north station point on the Delaware river.⁶

Nothing came of this appointment and seven months after (January 8, 1686, old style,) the before named Governors of East and West Jersey, with the resident proprietors of each division, met at Millstone river, and agreed to submit the question to John Reid, Deputy Surveyor General of East Jersey, and William Emley, a surveyor of Amwell, in West New Jersey. Bond was entered into January 8th, 1686, by the Deputy

⁴ Smith's History of New Jersey, pages 156-157.

⁵ History of Monmouth County, N. J., page 32.

⁶ New Jersey Archives, Vol. 1, page 517.

Governors and Proprietors of each province, in the penalty of £5,000, to abide their decision.⁷ The award of Reid and Emley bears the same date as the bond. In this award they say, "the line shall run from ye north side of ye mouth or inlet of ye beach of Little Egg Harbor, on a straight lyne to Delaware river north northwest and fifty minutes more westerly, according to natural position and not according to ye magnet, whose variation is nine degrees westward," thus disregarding the deed of division of 1676.

There is no other explanation to this than that George Keith had laid before the referees his map of the territory mentioned in his report of running the line, with the object of equalizing the areas between the parties interested.

With this award the western owners were much dissatisfied and Daniel Coxe, as Governor of that division under Edward Byllynge's right, coming from the King, and the largest owner in the province, stoutly resisted the adoption of the line by them agreed upon. In a letter to the West Jersey Proprietors, dated September 5, 1687, he claimed to have purchased all of Byllynge's interest, both the government and soil, and refers to an agreement between Byllynge and Carteret that the line should extend from Little Egg Harbor to the most northerly branch of Delaware river in $41^{\circ} 40'$ of latitude, &c., from which the arbitrators could not depart.⁸

The Eastern Proprietors persisted and sent a committee to the Deputy Governor of West Jersey to proceed with the work, and who consented that George Keith might run the line. He was governed entirely by the award, and after fixing the point at the southerly end of the beach at Little Egg Harbor ran the line upon the course named in the award about sixty miles to Dobies' plantation. As Doctor Coxe had claimed in his letter, the line ran too far to the westward, and George Keith, discovering this fact, abandoned it at the point before named.⁹

It is proper that George Keith's own report of this proceeding should be here introduced, it being the history thereof, interest-

⁷ New Jersey Archives, Vol. 1, page 522.

⁸ Liber F2, page 435, Office Secretary of State, Trenton, N. J.

⁹ History of Monmouth County, page 32.

ing and instructive as well. It is of record in the office of the Surveyor General of East New Jersey, at Perth Amboy, in Book O of Records, page 1, &c., &c., as follows :

“ By warrant from the Governor and proprietors of East New Jersey, bearing date 22d of 2d month, 1687, I have run the line of division from the mouth or inlet of Little Egg Harbor : Beginning at a chestnut stake set up on the north side of the mouth or inlet of Little Egg Harbor, standing about a chain distance from the flood mark, marking said stake on the East side with E on the West side with W and on the South side with † and ran a straight line over the bay, north by west, and three degrees and five minutes more westerly according to the needle or magnetic position and by natural position N. N. W. and 50 minutes more westerly according to the agreement made between the Governors and other proprietors of both provinces, the variation of the needle in this place of the world being nyn degrees westerly. The said line of division running through the bay clear of all islands, but touching near to a bank of sand about a pole north of it to the mouth of a creek called by the Indian name of Oysterenr, where we set up a stake of white oak, and so through a large marsh or salt meadow about a mile deep to a pine tree on the upland, marked on the East side E and on the West side W and on the South side †. And so through a great tract of barren lands consisting of pine land and sand, crossing divers small brooks and cedar swamps

run

vay for the space of thirty-six
from the said mouth of Little Egg
the maine, thirty-eight miles
trees all along marked in

marked on the south and north side, and after the said tract of pines, thirty miles in length as aforesaid, the greatest depth thereof being about twenty-five English miles, the same straight line running through to the good land but somewhat sandy and having some pines mingled with oaks to Crosswick's creek, about two English estimated miles ; thence straight through a neck of good land to another turning of said Crosswick's creek

(the brooks winding about from northwesterly to southwesterly) seven estimated miles and touching upon the path from Shrewsbury to Burlington, about a mile and a half westerly from the most easterly part of said creek ; thence running by the same course to the path that goeth to John Inions, on Raritan river, to Delaware falls, near an estimated English mile southwesterly from Stony brook, the distance betwixt the said two paths on the line being about twelve English miles—all tolerable good land on both sides of the line ; thence by the same course to the south branch, but more properly to the southwest of Raritan river and to an oak tree marked on the upland of the north side of Raritan river, about twelve estimated English miles, all tolerable lands on both sides the line so far as was in our view, but somewhat stony for two or three miles near Stony brook, and so far I have brought the line at present, the whole estimated distance from the Maine over against Little Egg Harbor to the said oak tree marked on the north side of the south branch, but more properly Southwest Raritan river, containing sixty English miles, the line running westerly of John Campbell's purchase about one English estimated mile westerly of Perth Amboy about twenty-five English miles and some parts of a mile, which doth very well agree to our map and general survey of all the coast of East Jersey from Delaware river to Hudson's river and from thence to Little Egg Harbor and is a plain demonstration of the truth of it so far as the line is run.

26th, 3d mo., 1687.

GEORGE KEITH.

I certify the foregoing to be a true copy of the records in the Surveyor General's Office of East New Jersey at Perth Amboy, taken from book O, pages 1 and 2, duly examined and compared. (Note—The blanks in the first folio of this copy are caused by part of the leaf of the record having been lost.)

Witness my hand and the seal of the Eastern Division of New Jersey, at Perth Amboy, the 8th of May, 1854.

[L. S.]

F. A. BRINLEY, Surveyor General.

This paper discloses some facts not heretofore generally known and occasionally questioned. That George Keith was on the

beach and selected his point of beginning with some care is beyond doubt, and but for the constant changing of the shore and the closing of the Inlet could be more easily defined at this time. That he made note of prominent objects as he proceeded across the bay, at the edge of the marsh, and where he reached the upland, is shown by reading his report.

The point (at the upland) is mentioned in 1692 in a survey made to William Penn for 1,200 acres only five years after Keith's running, and then easily found.¹⁰ The subsequent owners of Penn's location have kept up that monument and it is recognized and acknowledged at the present time. This survey also bounds on the Province line for nine and a half miles, which boundary interested parties have taken pains to preserve.

Unjust as this evidently was to the Western owners, the next year (September 5th, 1688) Daniel Coxe and Robert Barclay, Governors of the two Provinces, signed an agreement (in London) that this line should so remain. In substance this agreement was, that the line as run by George Keith from Little Egg Harbor to Dobie's plantation should be the bounds between East and West Jersey and should not be altered, and should go from thence along the back of the adjoining plantation to James Dundas' plantation; thence eastward to the north branch of Raritan river; thence up said river to the head thereof; thence by various courses to the north partition point.¹¹

The only explanation that can be made to the above, after the earnest protest of Governor Coxe, is that they regarded it simply as a political division and to establish the lines between the counties of each province bounding thereon, and not in any way affecting their rights in the division of the territory, according to the Quintipartite deed.

The greatest inconsistency appears in the latter clause of the agreement, where it is said the line shall go eastward by several plantations to the Raritan river, and thence to the north station points, at once ignoring the spirit and letter of the Quintipartite

¹⁰ Liber E, page 2, Surveyor General's Office, Perth Amboy.

¹¹ Faden's Map of N. J., 1777.

deed of 1676, and jeopardizing the title to all the surveys made in that section of the country.

The only solution to this must be in the attempt to equalize the areas of the two divisions as before named—a theory that was soon repudiated by all parties. The value of the land, the ore and the water power in the disputed territory kept the contest alive, and it was waged with the same fierceness and acrimony as before, and until another effort was made to have the line run from one point to the other.

In 1719 the question was fairly met by the passage of an act by the Legislature entitled, “An act for running and ascertaining the line of partition or division between the eastern and western divisions of the province of New Jersey, and for the purpose of preventing disputes for the future concerning the same, and for securing to the general proprietors of the soil of each of the divisions and persons claiming under them and their several and respective possessions, rights and just claims.”¹²

The preamble of the act shows that the Legislature had a clear understanding of the subject before it, and appreciated the surrounding difficulties. The station point at each end of the line as named in the act could not be mistaken and are as follows: “That said line, that is to say, a straight and direct line from the most northerly point or boundary of this Province of New Jersey, on the northernmost branch of the river Delaware, unto the most southerly point of a certain beach or island of sand lying next and adjoining to the main sea, at the north side of the mouth or entrance of a certain inlet, bay or harbor commonly called and known by the name of Little Egg Harbor, is and shall forever hereafter remain and be the line of partition and division betwixt the eastern and western division of this Province.”

The whole act of thirteen sections shows it to have been carefully framed and designed to cover every possible contingency of dispute that could arise. Provision was made for the quieting and confirming the titles of claimants who had made surveys on the west side of the line under East

¹² Allison's Laws, page 43.

Jersey rights, and of claimants who had made surveys on the east side of the line under West Jersey rights, and that computation should be made of such located lands, and that the division having the most of such surveys should pay the other division an equivalent therefor.

And further, that persons using rights in locating land within the angle produced by the two lines, be they East or West Jersey rights, should not be dispossessed for that reason. Commissioners or managers were appointed for each division, with power to raise money to defray expenses and have general charge of the work, using the money so raised to that end. They were required to select the Surveyor General of each division and had power to choose such other surveyors, and fit and able persons to assist in the business in hand. March 31st, 1719, Robert Hunter, Governor, appointed John Johnson and George Willocks as Commissioners on the part of East Jersey,¹³ and Joseph Kirkbride and John Reading as Commissioners on the part of West Jersey, and James Alexander, Surveyor General of both divisions, to meet¹⁴ Robert Walker and Isaac Hicks, Commissioners, and Allan Jarratt, Surveyor General of the State of New York, appointed by the Governor of New York, and July 25th of the same year a tripartite agreement or deed was signed by all except Joseph Kirkbride.

The purpose of this mixed Commission was to establish the north partition point on the Delaware river, which interested all parties alike, and which controlled the *course* of the line across the province. Much care is evidenced in the instructions to these gentlemen as shown in the tripartite deed. They were personally to inspect the Delaware river and its several branches in the region of 41° 40' latitude to discover the largest tributary and to note the most conspicuous places near by.¹⁵

The settlement of this point not only affected the interests of each division of New Jersey, but of the State of New York as well, and appreciating the duties before them, the Commission-

¹³ Liber D 2, page 276, Trenton.

¹⁴ Liber G2, page.

¹⁵ Liber D2, page 280, Trenton.

ers proceeded. Finding no "branch" of the river near $41^{\circ} 40'$ latitude, they fixed the point on the river itself, (calling it Fish Kill) and so made their report. To carry out this decision the Council of Proprietors of West New Jersey took action as follows.

April 9th, 1720, a committee was appointed to raise money to pay expenses, &c., and to meet a committee of Eastern Proprietors to proceed with the work.¹⁶

June 12, 1720, compensation of surveyors and workmen was fixed and the line to begin "at Little Egg Harbor and run the whole length and fix the north station point on the Delaware river at $41^{\circ} 40'$ latitude."¹⁷

John Chapman was selected as surveyor and in the November following commenced the work. His purpose seems to have been to retrace George Keith's line as run by him in 1687. His field book says: "November 18th, 1720, went on to the beach and to the point of land at the inlet." From this point he could see objects on the main land for he "took course to Charles Dingee's house," and run up the beach 116 chains "to a point of high beach where the cedar groweth" taking course to Dingee's house at different angles in his line.

November 19th, he went to the old line on the main land and run "to a pine by the edge of the marsh." Then he followed Keith's line N. 18° W. about $\frac{1}{4}$ north 293.00. He continued the line $62\frac{7}{10}$ miles to the Raritan river and marked a white oak tree by the river. The course of the old line he found to be N. $16^{\circ} 39' 53''$.

There is nothing in his field book to show where he established the station point on the beach, nor whether the beach had made southwardly in the thirty-three years intervening between Keith's and his running. This important fact does not appear upon the map made by John Chapman of this work, hence but little can be gathered therefrom.

Nothing came of this second attempt to establish the division boundary, for in "A consise view of the controversy between

¹⁶ Minute book No. 3, page 202.

¹⁷ Page 208, 210.

the proprietors of East and West Jersey," published in 1785 by the Western owners, it is said, "The Commissioners met, quarrelled, executed the Tripartite deed, broke off, disputed about the goodness of their mathematical instruments, separated without running the line"—showing that so far every effort had failed of the purpose.

One objection made by the people of the western part was that James Alexander was Surveyor General of both divisions, and that his interests lay largely with the Eastern Proprietors, hence he rested under the suspicion of not dealing fairly, and although the Western Proprietors endeavored to displace him, yet they failed in so doing.

Be the foregoing true or false, nearly ten years after (April 9th, 1729) the action of this Commission was approved and ratified by the owners of each division—but for want of funds the West Jersey proprietors refused to join the eastern owners and run the line.

Several ineffectual attempts were subsequently made on the part of the Eastern Proprietors to induce the Western Proprietors to proceed with the work (as was alleged for want of funds on the part of the western owners) but nothing was done until 1740, when Governor Lewis Morris appointed John Hamilton and Andrew Johnson to settle the boundary.

In 1743, by request of the eastern owners the Governor, Lewis Morris, commissioned John Lawrence "to run, mark, fix and ascertain the said line of partition pursuant to the said act of Assembly." His commission bears date August 26th, 1743, with instructions attached. He was empowered to employ Martin Ryerson or Gersham Mott as assistant surveyor and the necessary axemen, chain bearers, markers, &c., &c.

In the months of September and October of that year (1743) John Lawrence did run, mark, fix and ascertain said line, by running a random line from Little Egg Harbor to the north station point at $41^{\circ} 40'$. He then established the course of $39^{\circ} 45' W.$ and traced the boundary, and to which line, as claimed by the eastern owners, the western owners acquiesced, and for several years made no protest.

This was not true, however, as the minutes of the Council will show. They read as follows :

November 3d, 1743. Council received information that the eastern owners had run the line *ex parte*. Committee appointed to discover where they began, &c., &c.¹⁸ The next year the following minute was entered : February 8th, 1744. Committee with eastern committee to fix the station points at Little Egg Harbor, according to the Quintipartite deed, reported map, &c. Ordered filed.¹⁹

Much dissatisfaction certainly existed among the western owners, especially as to the station at Little Egg Harbor, for, as may be seen, after the line had been run by John Lawrence, an effort was made to establish that point according to the Quintipartite deed of 1676. It is unfortunate that the map made on that occasion has been taken from the office and lost, which might explain many things not now understood.

The wording of the minute last before named bears much significance and proves that they held to the broad principle that the intention of the parties must be adhered to if the words of the covenant are sufficiently explicit to discover such intention. The fixing of the south station point of the province line at Little Egg Harbor by John Lawrence, in 1743, was in entire disregard of the work done by George Keith in 1687, and of the spirit and letter of the deed of division as well. It has long been known that the tendency of the Inlets on the New Jersey Coast, south of Barnagat, is to the southward. John Lawrence practically admits this fact as to Little Egg Harbor inlet by his map, forgetting however that the monument as fixed by the deed of 1676 at that place was not to be controlled by the action of the elements. The deed of 1676 was in its language neither vague nor uncertain, and the parties in interest fully understood its import and meaning. Fifty-six years did not weaken its force, and John Lawrence was as much bound by it in 1743 as George Keith was bound by it in 1687. He did not do it ignorantly, for he, as shown by his map, projected two lines from the white oak

¹⁸ Minute book No. 5, page 106.

¹⁹ Page 169.

tree by the river Raritan as marked by John Chapman in 1720—one by Keith's line to Keith's original corner by the sea, and another to the point whence he took his departure at what was then the southerly end of the beach—forty-two chains southerly from Keith's station point, as stated by Mr. Alexander, and seventy-six chains as measured by Professor George H. Cook.

Judge Potts discussed this question very fully in the case of *Cornelius & Empson vs. Giberson* and reported in 1st Dutcher's Reports, page 1, &c., and arrived at the conclusion that the line as run by John Lawrence had been accepted by the Western owners, tacitly at least, by various acts of those who had made surveys east of that line under West Jersey rights. There was no doubt various reasons for this, not consistent with an acknowledgment of Lawrence's line, but from a desire to avoid litigation and expense.²⁰

The reasons urged by the New York owners in a paper touching this subject applied as well to the claims of West New Jersey as to those of New York and the acceptance of the report of the Commissioners appointed by the King, dated November 30th, 1774, upon this question is conclusive upon the same point. Judge Potts, in the absence of many valuable documents now accessible, very naturally fell into a once prevalent error, that John Lawrence was governed by the expressions of the two deeds before named, when in fact he relied entirely upon the act of 1719 and was so governed in his work, and it was equally natural that Professor George H. Cook, Surveyor General of East New Jersey, in presenting the claims of that division on the occasion of the bi-centennial celebration of its proprietors, in 1884, should accept and advocate this theory.

If the inference for such proceedings was drawn from the wording of the act of 1719, which says, "unto the most southerly point of a certain beach or island of sand lying next and adjoining the main sea on the north side of the mouth or entrance of a certain inlet, bay or harbor commonly called and known by the name of Little Egg Harbor," it was erroneous,

²⁰ Dutcher's Reports, vol. 1, page 1.

for the legislature had neither the power or the right, by the act of 1719, to change the position of the monument established in good faith by the owners of the soil, and seriously affect the title to surveys made upon the land near that point or the line running therefrom. The fixing of that point was not a legislative act, nor was it arrived at by the decision of any judicial tribunal, but was a covenant made by the owners of the soil—persons who were capable of making a contract and who infused into it an elementary principle always to be recognized and always to be sustained.

Some years after John Lawrence had finished his work (1750) James Alexander, Surveyor General of both provinces, and a man whose interests were largely in East Jersey and with eastern owners, reviewed his proceedings and has left his methods and opinions on record in his journal now on file in the Surveyor General's office, at Burlington, N. J. He there states that he found in Dennis' journal that Nicholas Wainwright testified that he was shown, fifty years before, a red cedar post on the beach by William Bond, who told him that it was the beginning of the partition line as fixed by George Keith, verifying Keith's report in this particular.²¹

Dennis' journal was dated prior to 1750, and after Lawrence's running, which would carry the information derived by Nicholas Wainwright back to within a few years of Keith's establishing this point. Another extract from Dennis' journal says James Pharo was with John Chapman in 1720, when he ran Keith's line and found one of the line trees near Wading river, which Mr. Alexander regarded as showing that John Chapman found Keith's line and run it. James Alexander examined the facts as collected by John Lawrence and considered his manner of their application fairly. He also gathered from Dennis' journal enough to convince him that John Chapman adopted the true theory and fixed the beginning where Keith had set the chestnut stake. The course of the line, as computed by James Alexander from Keith's running, in 1687, and from Chapman's running in 1720, with

²¹ James Alexander's Journal, Surveyor General's office, Burlington, N. J.

the variation computed to the present time is found to be S. 16° 05' E. and corresponds with the course of the line given on the Geological map of New Jersey for 1885, and terminates at the same point on the beach. The conclusions of James Alexander, after thorough examination of everything laid before him, and mature deliberation, were that John Lawrence had committed an error in changing the south station point and that there was no warrant for so doing.

In 1690 Daniel Coxe made a survey on the beach at Little Egg Harbor, extending from the province line on the south to Sonman's line on the north and made return thereof under East Jersey rights to the Council of Proprietors of East Jersey, which body confirmed his title thereto in severalty according to the rules.²² This survey had special reference to the province line and was intended to include all the lands on the beach from Sonman's line southerly that lay in East New Jersey. After various conveyances this survey become the property of the "Long Beach Company," and in the mean time the inlet at Little Egg Harbor had changed, and the beach following the inlet made about one mile southwardly. John Monroe and others, on behalf of the beach company, in 1774 located the land between the province line and the new inlet under West Jersey rights and returned the same to the Council of Proprietors of West New Jersey, which body confirmed its title thereto in severalty, according to the rules.²³

No regard was paid to John Lawrence's line at that time and the title to the land thus located was not questioned, and is part of the division made among the owners of the two adjoining surveys in 1818. In that division parts of lots No. 17 and No. 18, and all of lot No. 19 are within the bounds of the last named survey. If the position of Lawrence's line be correct, then that part of the survey made in 1774 between Keith's line and Lawrence's line is void and the land vacant.²⁴

This is a serious question and throws a shadow on the title of

²² Book O of records, page 80, Perth Amboy.

²³ Book Q, page 103, Burlington, N. J.

²⁴ Files of the Supreme Court, Trenton, N. J.

part of that survey, and the same theory will apply to large tracts of land between the two lines and which must suffer in like manner.

During this controversy between the provinces of New Jersey, there was another element of discord growing out of the wording of the grant to Carteret and Berkley and which somewhat affected the settlement in question. That was the claim of the State of New York as to the true position of the *State* line between that commonwealth and New Jersey, as applied to the north station point on the Delaware river and identical with the north station point in the division of East and West Jersey.²⁵

The discontent of the people on either side of and near the State line induced the Legislatures of New York and New Jersey to pass similar acts, asking the King to appoint a commission to fix the points on the Hudson and Delaware rivers and establish the boundary between said States.²⁶ These acts were passed in 1764, and application was made to the King for a commission to settle this long disputed question, pursuant to the two said acts. His majesty named the persons October 7, 1767, who met in New York City July 18, 1769, and proceeded to dispose of this troublesome controversy. The Commissioners were Charles Stuart, John Temple and Peter Randolph, Surveyors General for the district of Quebec and of the northern and southern districts of America, respectively;²⁷ Andrew Elliott, Receiver General of the quit-rents in the province of New York; Chambers Russell Judge of the Court of Vice Admiralty for the province of Massachusetts; William Allen, Chief Justice of Pennsylvania; Samuel Holland and William DeBrahm, Surveyors General of lands in the northern and southern districts of America²⁸; Andrew Oliver, Secretary of the province of Massachusetts; Charles Morris, Surveyor of lands and one of the Council of Nova Scotia; Peyton Randolph, Attorney General and one of the Council of Virginia; Benjamin Franklin, of the province

²⁵ Bi-Centennial Celebration of East Jersey Proprietors, 1884, page 45.

²⁶ W. A. Whithead's paper on the north boundary—Proceedings of N. J. His. Soc. Vol. 8, page 159.

²⁷ Gordon's His. of N. J., page 72.

²⁸ New Jersey Archives Vol. 9, page 447.

of Pennsylvania, and Jarrett Ingersoll, of the Colony of Connecticut.²⁹

New York and New Jersey were each represented by able counsel. All the documentary and oral evidence that could be secured was presented. The services of David Rittenhouse were obtained to test by proper observation the degree of latitude on the Hudson and Delaware rivers, and every source of information exhausted, so that an intelligent and satisfactory conclusion could be reached.³⁰ October 7th, 1769, a report was submitted to the King, fixing the Mackhackamack as the northerly branch and where that stream falls into the Delaware river (in $41^{\circ} 21' 37''$ of north latitude) as the north station point. The King approved the award April 27th, 1773, which practically ended the trouble between New York and New Jersey.

By this East Jersey lost 2,000,000 acres of land to New York and West Jersey laid claim to all the territory between Lawrence's line and the line running from the mouth of the Mackhackamack to the south station point at Little Egg Harbor. In 1771 the legislature of New York passed an act confirming the award of the Commissioners and the next year (1772) the legislature of New Jersey a similar law, which laws were approved by the King September 1st, 1773.³¹

In 1775 the West New Jersey Proprietors asked the legislature to pass an act giving them power to assert their right to the land between Lawrence's line and the line from the mouth of the Mackhackamack to Little Egg Harbor, containing about 1,850,000 acres, which was refused. This was renewed in 1782 but was again defeated.

The report approved by the King and confirmed by the acts of the legislatures of New York and New Jersey was in compliance with the claim as always made by the western owners, and settled the question as to the north station point, but the refusal of the legislature of New Jersey, in 1775 and in

²⁹ G. H. Cook's statement Bi-Centennial celebration of East Jersey proprietors 1884, page 52.

³⁰ Bi-Centennial celebration of East Jersey Proprietors 1804, page 45.

³¹ W. A. Whithead's paper, (see ante.)

1782 to grant the request of the Western Proprietors, so that the report and acts before named could be enforced, left them without remedy, except in the courts of law.

From the passage of the acts in 1764 to the approval of the King in 1773, all parties interested participated in the proceedings. The ability and fairness of the gentlemen comprising the commission were not questioned, and each province used its best endeavor to present its case; but the East Jersey owners demurred and did not submit to the award. Nor were the West Jersey owners entirely satisfied, for their only remedy (after the refusal of the legislature, in 1775 and in 1782, to confirm the title to the land that fell to them by the award) lay in the courts of the State—a slow, expensive and uncertain process.

To show that the Council of Proprietors of West New Jersey were not indifferent to their interests in this protracted controversy, extracts of the minutes of the proceedings of that body are here inserted, as follows:

May 8th, 1761. The boundary question was again agitated, when it was found that several of the committee to run the line were dead and others removed from the province, which vacancies were supplied.³²

November 5th, 1762. The committee of East Jersey Proprietors was in attendance and proposed the appointment of a committee to join them to settle the dispute. The proposition was accepted and the former committee continued.³³

May 7th, 1765. A letter was received from the eastern board, acknowledging the notice of acceptance and hoping the dispute could be settled.³⁴

November 6, 1771, the board sent deputy surveyors to take course and distance from Dobie's plantation to Lawrence's line, to know the amount of acres between the two lines.³⁵

February 4, 1774, new committee appointed with power to retain the services of four eminent lawyers to defend their rights.³⁶

³² Minute book No. 6, page 232.

³³ Page 285.

³⁴ Minute book No. 7, page 7.

³⁵ Minute book No. 8, page 34.

³⁶ Pages 79, 82, 84.

February 17th and March 22d, 1774, General meeting of the proprietors called and these questions discussed, showing that much uneasiness existed as to the conduct of the eastern owners. From that time until the present, notwithstanding that portions of the line have at various times been run, no results have been attained to justify the hope of a settlement of the points at issue, now deemed possible by your committee.

In 1854 commissioners were appointed by the legislature to run and mark the boundary line between the counties of Burlington and Ocean, which was the retracing of George Keith's line from Crosswick's creek to the mouth of Little Egg Harbor inlet as known in 1687. This work was carefully done and stones put in along the line at proper places, without protest from the property owners or the authorities of either county, showing the approbation of those most familiar with this ancient boundary at that time.

And your committee would repeat that every available source of information has been taken advantage of; that the report of George Keith of 1687, the field notes and memoranda of John Chapman of 1720, the field notes and memoranda of John Lawrence of 1743 and the field notes of Franklin W. Earl of 1854 have been examined and compared. That part of the westerly line of William Penn's survey of 1,200 acres, made in 1692, and bounding on the province line as run by George Keith in 1687, has been carefully traced on the ground, passing over the ancient monuments before named and continued across the marsh and bay on to the beach, and where at the end of said line a granite post has been placed. This post is marked with the letter E on the east side and with the letter W on the west side to conform to the marking of the chestnut stake as set up by George Keith in 1687.

Regard was had to the evidence of the old inlet, which is sufficiently apparent in the sand hills along the ocean front to satisfy your committee of the beginning point as established by George Keith. The line run and adopted as the true one is upon a course of S. $16^{\circ} 05'$ E. by the true meridian passing over two of the stone monuments put in by the Commissioners in

running the line between Burlington and Ocean counties in 1854, and the stone where formerly stood a willow tree, the corner of Penn's 1,200 acre survey before named. In the judgment of your committee this is upon the line run by George Keith, if the various authorities consulted and the evidence on the ground are to be relied on. The termination of the line is fixed nearer the sea than that shown as the Commissioners' monument, and a short distance more easterly, occasioned probably by the diurnal variation of the magnetic needle.

The ordinary difficulties incident to field work have been encountered, the difference of instruments, of magnetic variation and the errors of measurement have been reconciled as far as possible, and it is hoped that the true position has been fixed upon to show the beginning of the line as named in the deed of 1676, and that the reasons for so doing will prove satisfactory to all, and put an end to future controversy.

In reviewing the history of this dispute, which has extended over two centuries of time, the proceedings of the parties interested show many inconsistencies, and which at this day add much to the complications of the question—the award of John Reid and William Emley, January 8th, 1686, and the running of the line of George Keith in 1687, according to that award, when it was known and acknowledged to be wrong, and the approval thereof by the Governors of the two provinces. The first proceedings under the act of 1719 proved abortive, for John Chapman followed the footsteps of George Keith, whose error the act was intended to correct. These proceedings were also approved and ratified by each division, but the true line was not run.

The work done in 1743 by John Lawrence was claimed by the West Jersey proprietors as *ex-parte* and entirely in the interest of the eastern owners. The changing of the south station point at Little Egg Harbor by him was wrong and the fixing of the north station point at $41^{\circ} 40'$ and on the main river certainly had not the approval of the authorities of New York and of which the Eastern Proprietors could not have been ignorant.

The proceedings under the joint acts of 1764 were regular and ably conducted, but related entirely to the north station point

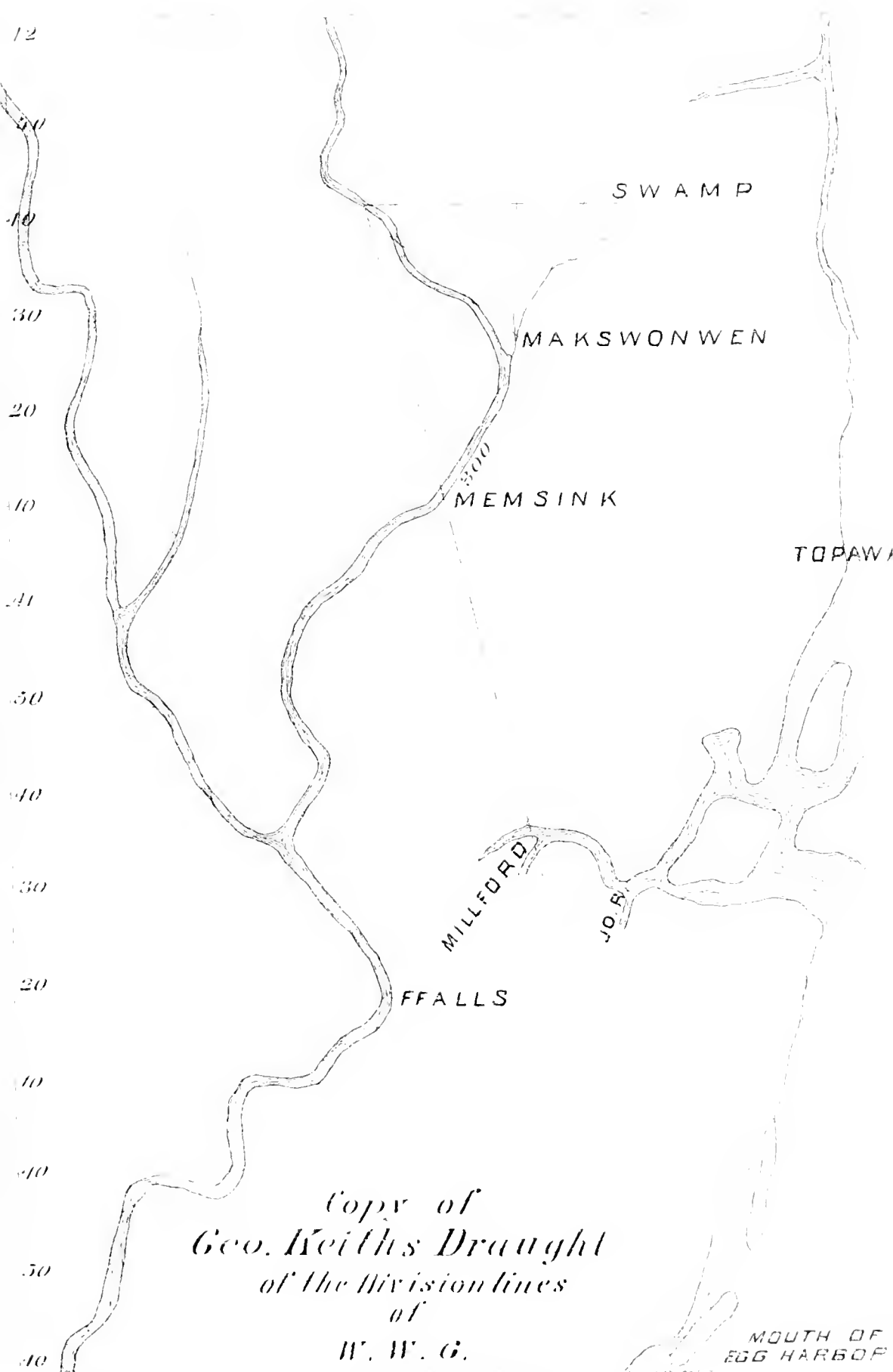
as between the States of New York and New Jersey and identical with the north station point between East and West New Jersey, as expressed in the deed of purchase of 1664 and the deed of division of 1676. It was in good faith, for each division of New Jersey and the State of New York became parties thereto and each was well represented before the Commission. The character of the persons who constituted the Commission proved the care of the King in their selection and of his desire to end a dispute that agitated part of his subjects in America. And if the north station point as named by the original contracting parties, and as established by the commission of 1773, be conclusive as against the Eastern Proprietors, and identical with the point of division of 1676, then so much of this controversy should be forever put at rest.

Sufficient has already been said as to the south station point at Little Egg Harbor, as fixed by George Keith in 1687 and never questioned until attempted to be changed by John Lawrence in 1743. And if the premises assumed as to the north and south station points be correct as here stated (and approved by the council) then the line of division between East and West New Jersey should be between the station at the mouth of the Mackhackamack, on the Delaware river, and the station at Little Egg Harbor, and so claimed by the proprietors of the western division.

And in this view it becomes the duty of the Council, as the representative of the original owners of the soil, to enter this report upon the minute book of its proceedings—not in the spirit of contention nor to provoke litigation, but to preserve a concise history of the facts relating thereto and to show that these conclusions are the legitimate result thereof.

JOHN CLEMENT, HENRY B. FOWLER, HENRY S. HAINES,	}	Committee.
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Dated May 1st, 1888.



*Copy of
Geo. Keiths Draught
of the Division lines
of
W. W. G.*

133° W. 29 3/4 Miles

Course N 10 25 W. 44 miles 32 chs.
 Scale 20 miles to y^e inch.
 from y^e station on Rariton to
 the line 13 1/2 miles to 15 miles
 lonther y^e middle distance
 11 3/4 miles x 15 176 3/4 miles equals
 112800 A. 20 x 12 = 240 f m m.
 equals 153600 Acres.
 Jno. Deckers at
 Meckhuckinsuck

The Magnetic Course of y^e Scotch
 Laine in 1721 y^e 16 43 y^e Quingnepart
 line 8 43; angle 8

Distance from Egg Harbour to
 Rarington 62.71 miles. which makes
 y^e whole angle contain (between
 Rariton and Egg Harbor) 175.360
 Acres and they have about 50.000
 Acres. (as by said) above Rariton
 on y^e right of y^e Quingnepartite lines.

PEKEYESSE MEADOW

N 20 Miles 8 chs.

N 25 W.

ELIZAB. T.

NEW YORK

AMBOY

STATEN ISL.
AMBOY

LONG ISLAND

RARITON

SOUTH

WHITE OAK
 Marked LXXX near
 a cor. of Jno. Kays
 Land on Rariton
 South branch

FALLS OF
 DELAWARE

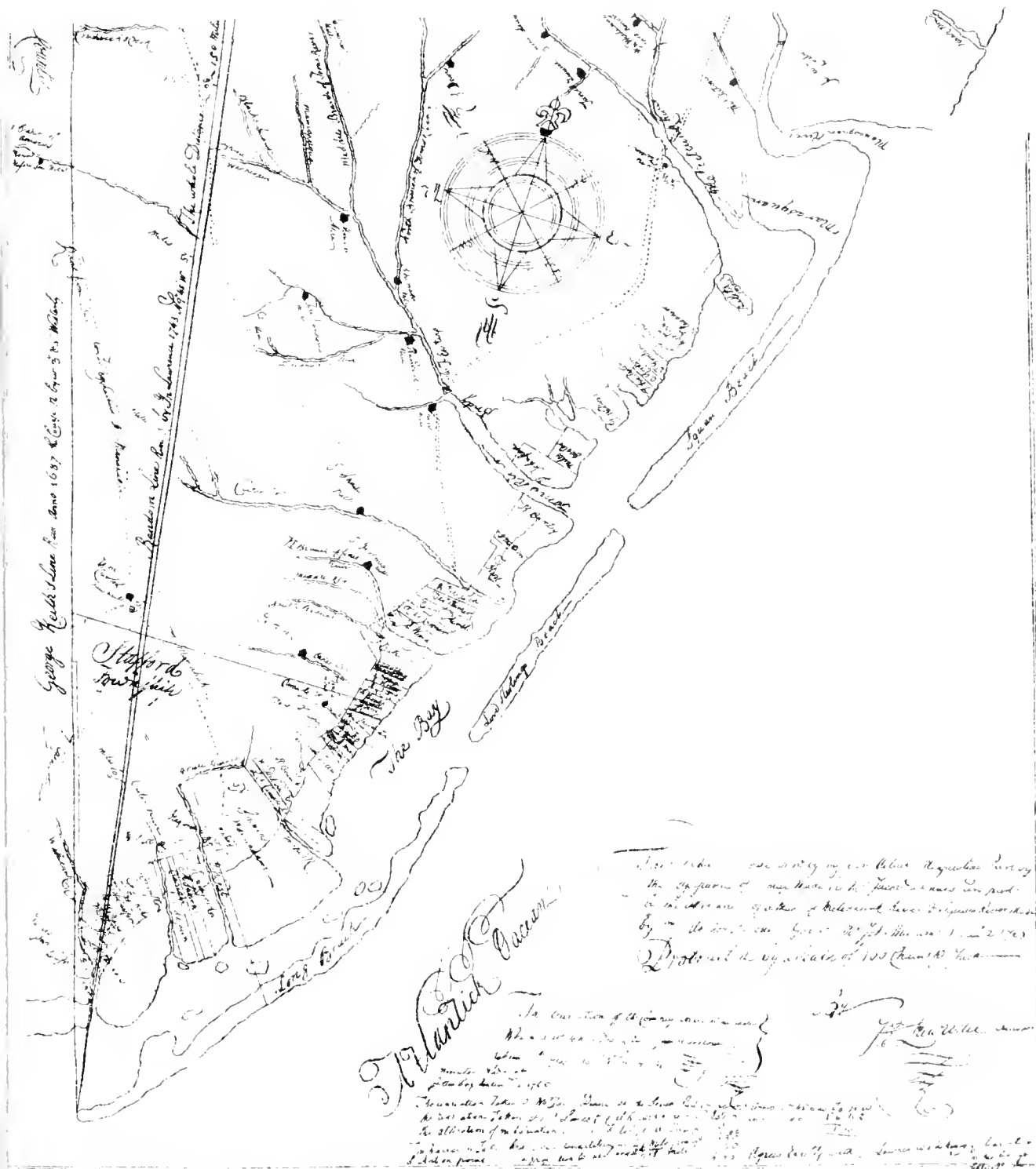
BURLINGTON

PHILADA.

44 miles 28 chs. by y^e needle
 This angle as here
 laid down 12 40
 6 1/2 miles 300 paces
 6 1/2 miles 300 paces
 N 20 25 W.

A. Draught of y^e
 Division Line of
 Jersey. J. L.

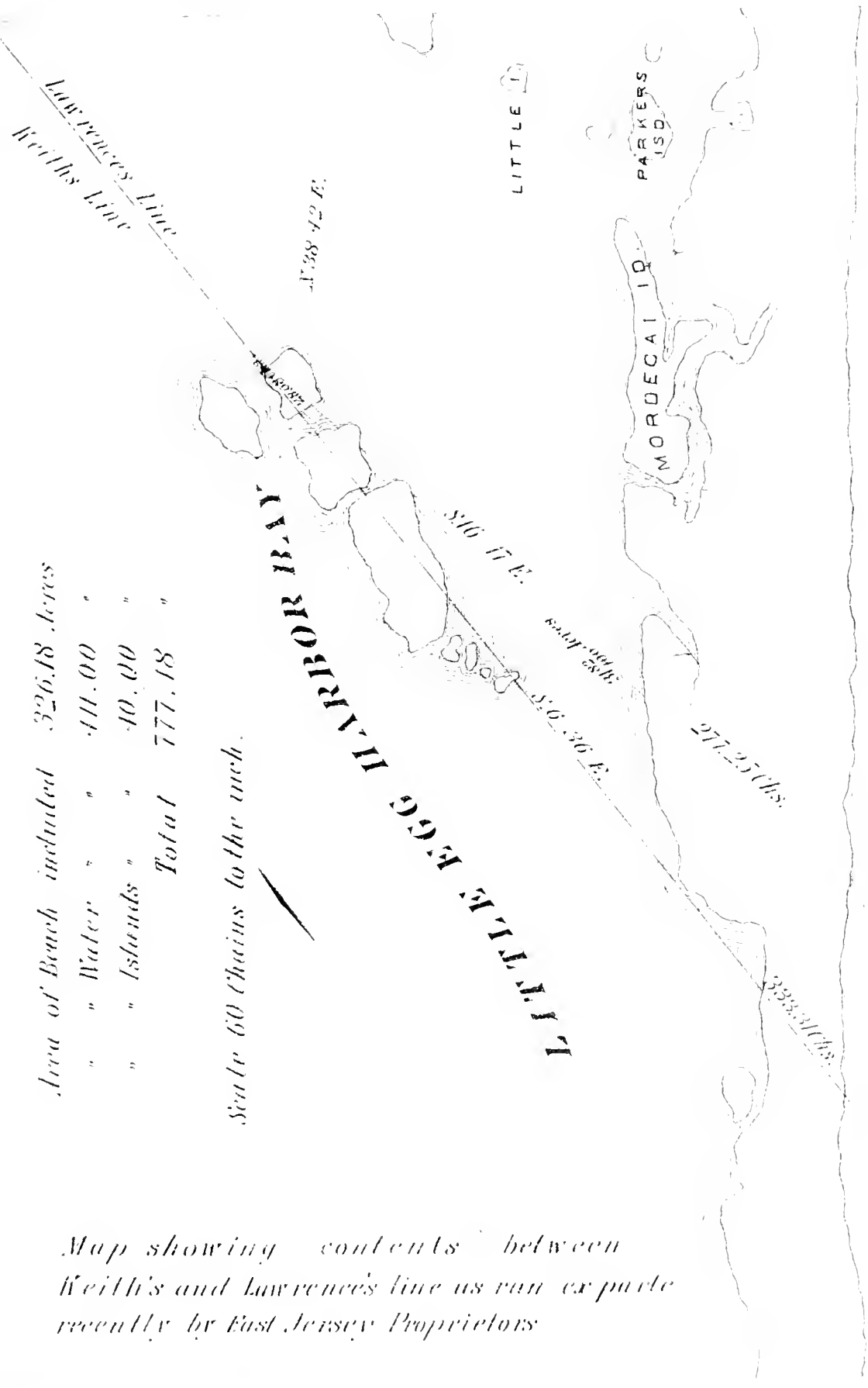
Station at Egg Harbor
 True Station at Egg Harbor



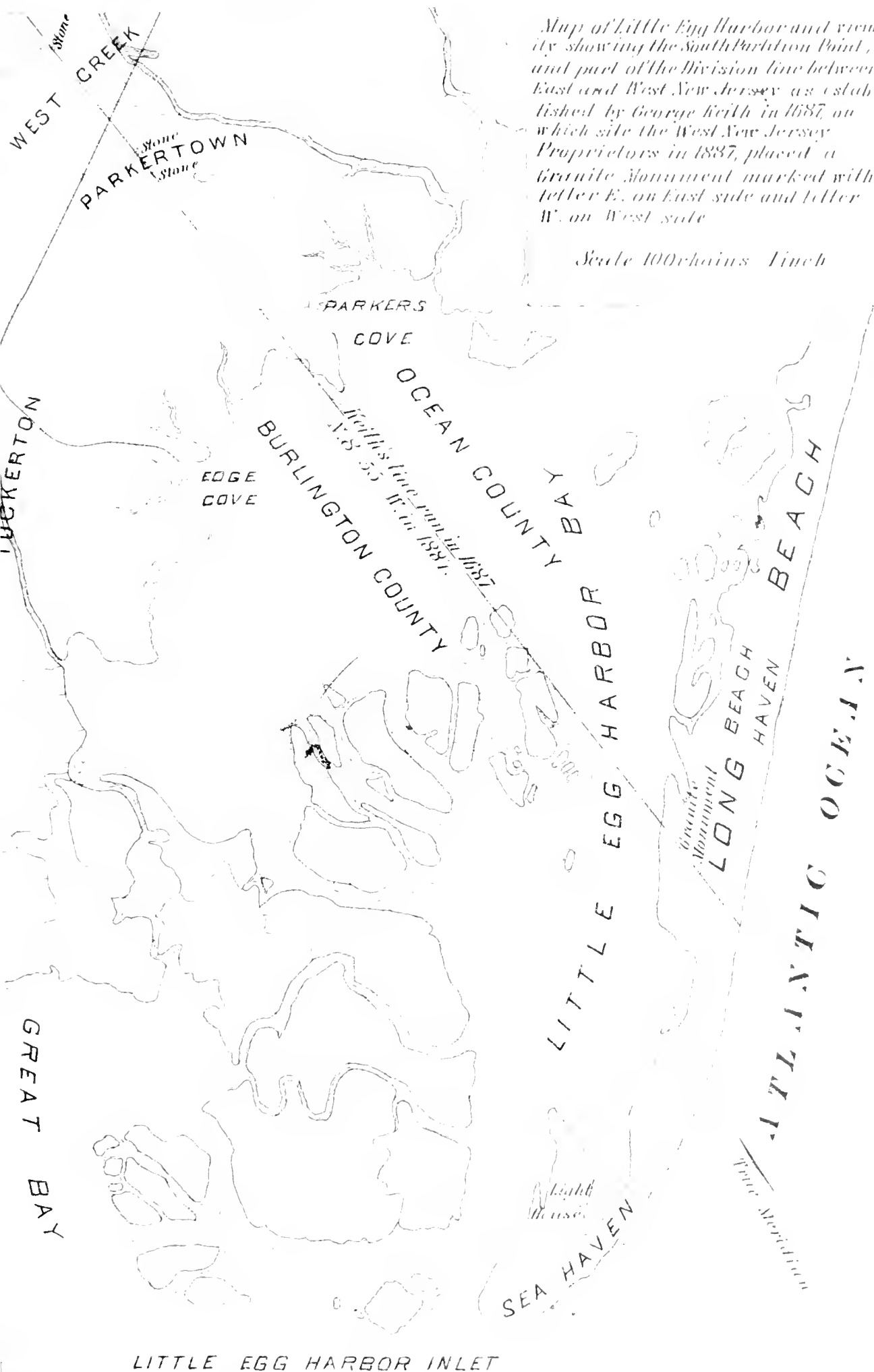
Map showing contents between
 Keith's and Lawrence's line as run exparte
 recently by East Jersey Proprietors

Area of Bench included	326.18 Acres
" " Water "	411.00 "
" " Islands "	40.00 "
Total	777.18 "

Scale 60 Chains to the inch.



Scale 60 Chains to the inch.



Map of Little Egg Harbor and vicinity showing the South Partition Point, and part of the Division line between East and West New Jersey as established by George Keith in 1687, on which side the West New Jersey Proprietors in 1887, placed a Granite Monument marked with letter E. on East side and letter W. on West side

Scale 100 chains = 1 inch

LITTLE EGG HARBOR INLET

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